

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 991
By: West
Criminal Justice
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Questions have been raised in recent years regarding why seriously ill and incapacitated offenders remain behind prison bars, when conceivably, because of their deteriorated health, they no longer pose a legitimate threat to public safety. Providing medical care for these seriously ill offenders can incur for the state enormous medical costs.

Under the provisions of the Medically Recommended Intensive Supervision (MRIS) program, offenders who are terminally ill, mentally ill, physically debilitated, elderly, or who are in need of long-term medical care can be considered for parole release. Their release is contingent on a decision of the Board of Pardons and Paroles (BPP) that the offender no longer poses a threat to public safety due to the offender's medical or mental health condition.

While the number of referrals for MRIS have consistently increased, the number and percentage of offenders actually granted parole release has remained stagnant. There were 1,318 MRIS referrals made to the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) in 2009, 1,444 in 2010, and 1,807 in 2011, according to the Legislative Budget Board. Of the 1,807 referrals to TCOOMMI in 2011, 1,125 offenders were statutorily eligible for MRIS consideration; BPP approved 91 MRIS parole releases.

While incarcerated, all costs for medical care are paid by the state. Offenders who are under supervision, but not confined in a penal institution are eligible for federally-funded healthcare assistance through Medicaid. This has been done in other states. While still under parole supervision by the Texas Department of Criminal Justice (TDCJ), offenders' health care costs could be jointly funded by Medicaid and TDCJ.

Under current law, offenders convicted of certain violent crimes listed in Section 3g, Article 42.12, Code of Criminal Procedure, and most imprisoned for sex offenses are not eligible for MRIS consideration, in addition to those sentenced to life or life without parole.

C.S.S.B. 991 amends current law relating to the release of certain inmates on medically recommended intensive supervision.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 508.115(a) and (d), Government Code, as follows:

- (a) Requires the pardons and paroles division, not later than the 11th day before the date a parole panel orders the release of an inmate on parole or medically recommended intensive supervision or not later than the 11th day after the date the Texas Board of Pardons and Paroles (BPP) recommends that the governor grant executive clemency, to notify the sheriffs, each chief of police, the prosecuting attorneys, and the district judges in the county in which the inmate was convicted and the county to which the inmate is released that a parole panel is considering release on parole or medically recommended

intensive supervision or the governor is considering clemency. Makes nonsubstantive changes.

(d) Requires that the notice include, rather than requires that the notice state, the inmate's name; the county in which the inmate was convicted; the offense for which the inmate was convicted; and to the extent permitted by federal law, information relating to the inmate's physical or mental health condition if the inmate is being considered for release on medically recommended intensive supervision under Section 508.146 (Medically Recommended Intensive Supervision). Makes nonsubstantive changes.

SECTION 2. Amends Section 508.146, Government Code, by amending Subsections (a), (e), and (f) and adding Subsection (g), as follows:

(a) Authorizes an inmate other than an inmate who is serving a sentence of death or life without parole to be released on medically recommended intensive supervision on a date designated by a parole panel described by Subsection (e) (relating to determinations made by parole panels) if the Texas Correctional Office on Offenders with Medical or Mental Impairments, in cooperation with the Correctional Managed Health Care Committee, identifies the inmate as requiring permanent long-term care, having a terminal illness, or being a person with a severe and persistent mental illness or intellectual and developmental disability, if the inmate is an inmate who does not have a reportable conviction or adjudication under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure, or being in a persistent vegetative state or being a person with an organic brain syndrome with significant to total mobility impairment, if the inmate is an inmate who has a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure.

Deletes existing text authorizing an inmate other than an inmate who is serving a sentence of death or life without parole to be released on medically recommended intensive supervision on a date designated by a parole panel described by Subsection (e), except that an inmate with an instant offense that is an offense described in Section 3g (relating to offenses for which a defendant is not eligible to be placed on community supervision), Article 42.12 (Community Supervision), Code of Criminal Procedure, or an inmate who has a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure, to only be considered if a medical condition of terminal illness or long-term care has been diagnosed by a physician, if the Texas Correctional Office on Offenders with Medical or Mental Impairments, in cooperation with the Correctional Managed Health Care Committee, identifies the inmate as being elderly, physically disabled, mentally ill, terminally ill, or mentally retarded or having a condition requiring long-term care, if the inmate is an inmate with an instant offense that is described in Section 3g, Article 42.12, Code of Criminal Procedure.

(e) Authorizes only a parole panel composed of three members appointed to the panel by the presiding officer, rather than authorizes only parole panels composed of the presiding officer of BPP and two members appointed to the panel by the presiding officer, to make determinations regarding the release of inmates on medically recommended intensive supervision under Subsection (a) or of inmates released pending deportation. Requires the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI), rather than requires the Texas Council on Offenders with Mental Impairments (council), if TCOOMMI, rather than the council, identifies an inmate as a candidate for release under the guidelines established by Subsection (a)(1) (relating to authorizing a certain inmate to be released on medically recommended intensive supervision on a certain date if TCOOMMI, in cooperation with the Correctional Managed Health Care Committee, identifies the inmate as meeting certain criteria), to present to a parole panel described by this subsection relevant information concerning the inmate and the inmate's potential for release under this section.

(f) Authorizes an inmate who is not a citizen of the United States, as defined by federal law, and who is not under a sentence of death or life without parole to be released to immigration authorities pending deportation on a date designated by a parole panel

described by Subsection (e) if the parole panel determines that on release the inmate would be deported to another country and that the inmate does not constitute a threat to public safety in the other country or this country and is unlikely to reenter this country illegally, rather than authorizing an inmate who is not a citizen of the United States, as defined by federal law, who is not under a sentence of death or life without parole, and who does not have a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure, or an instant offense described in Section 3g, Article 42.12, Code of Criminal Procedure, to be released to immigration authorities pending deportation on a date designated by a parole panel described by Subsection (e) if the parole panel determines that on release the inmate would be deported to another country and that the inmate does not constitute a threat to public safety in the other country or this country and is unlikely to reenter this country illegally.

(g) Defines "terminal illness" for purposes of Subsection (a).

SECTION 3. (a) Requires the Texas Department of Criminal Justice (TDCJ), the Department of Aging and Disability Services, and the Health and Human Services Commission jointly to conduct a study regarding the feasibility of contracting with a private entity to house inmates released on medically recommended intensive supervision under Section 508.146, Government Code, as amended by this Act, who require skilled nursing services or 24-hour care.

(b) Requires TDCJ, not later than December 1, 2014, to report the results of the study conducted under this section to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees of the house of representatives and the senate with primary jurisdiction over criminal justice matters.

(c) Provides that this section expires January 1, 2015.

SECTION 4. Effective date: September 1, 2013.